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18 May 2009

VIA HAND DELIVERY

Mr. Wayne Goodwin
Commissioner of Insurance
North Carolina Department of Insurance
430 N. Salisbury St.
Raleigh, NC 27603

Re: Request for Prospective Rate Hearing

Dear Commissioner Goodwin:

We represent Dare County, Washington County, Currituck County, Hyde County, Carteret County, New Hanover County, Brunswick County, Chowan County, Perquimans County, Tyrrell County, Pamlico County, Pasquotank County, Town of Nags Head, Town of Duck, Town of Southern Shores, Town of Indian Beach, Town of Pine Knoll Shores, Town of Emerald Isle, Town of Kill Devil Hills, Town of Kure Beach, Town of Carolina Beach, Town of Cedar Point, Town of Hertford, Starco Realty & Construction, Inc., and Joseph M. Geraghty.

On behalf of these eastern North Carolina counties, municipalities, businesses, and residents, we write to request you exercise your statutory and Constitutional authority under G.S. 58-36-20(b), 58-2-40(1) and Article IV, Section 3 of the North Carolina Constitution and hold a public hearing on prospective homeowners' insurance rates in North Carolina. The increases in homeowners' insurance rates as approved by the Commissioner in the 18 December 2008 Consolidated Settlement Agreement and Consent Order ("Consent Order") between the Commissioner, the North Carolina Department of Insurance ("Department"), and the North Carolina Rate Bureau ("Rate Bureau"), with no public hearing, were excessive and unfairly discriminatory towards residents of eastern North Carolina. The Consent Order entered by the Commissioner raised homeowners insurance rates in eastern North Carolina territories by as much as 30% in portions of Brunswick, New Hanover, Onslow, and Pender counties, while other portions of those same counties received increases of 17.5%. Currituck, Dare, Hyde, and Pamlico counties were impacted with increases of 22%.

The agency record did not support the rates as ordered and instead showed that the rate increases were arbitrary and lacking in any evidentiary support. For example:

- The Department stated that the rate increases were ordered in part to cover "rising construction and repair costs," despite the overwhelming evidence that due to the

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current economic recession, particularly in the residential sector from late 2007 to the present, construction costs declined sharply, based on steep declines in commodities prices and declines in labor costs, particularly in North Carolina.

- The Department improperly and unlawfully relied upon computer modeling to support the rate increases, with no validation or actuarial analysis to support those models.
- Residents and representatives of eastern North Carolina did not receive notice of the requested rate increase until after the decision to increase rates was made by the Department and were not given notice or permitted to participate in the proceedings at any point, despite numerous requests to which these residents and representatives were misled about the status of rate filings at the Department. No one representing consumer groups or opposing the insurance industry view was permitted to participate. The actions of the Department in approving a dramatic increase in homeowners rates with no notice or input from the public and with no actuarial analysis as required by statute were improper and illegal.

Residents and representatives of eastern North Carolina want the right to be heard and present evidence to support a prospective rate decrease in North Carolina. For example, the evidence will show that:

- Allowing insurers to collect more than \$278 million in premiums to cover \$22 million of potential risk of a storm assessment (more than \$12 to cover \$1) is excessive and egregious, amounting to very high profits for insurers in North Carolina and profits which are significantly higher than the national average. In the decade ending in 2007, the insurance industry in North Carolina received an average return on net worth on homeowners insurance of 11.2%, more than double the comparable national figure of 5.4%. See "Report on Profitability by Line by State" by the National Association of Insurance Commissioners, 2008, pages 142 and 278. (copy attached as Exhibit A). The profits for homeowners insurance have been excessive (29.2% in 2005, 24.9% in 2006, 20.9% in 2007). Id. See also "Insurers Maintain Record Profits in 2007 by Overpricing Policies and Underpaying Claims" by the Consumer Federation of America dated 10 January 2009. (copy attached as Exhibit B).
- The coastal territories were impacted by some of the highest rate increases in the state, without regard to the fact that the most catastrophic losses from hurricanes have actually occurred from hurricanes impacting non-coastal areas of North Carolina, such as Hurricanes Hugo, Floyd, and Fran, which caused extensive damage in the central and western parts of the state. Cumulative losses in eastern North Carolina from 1986 through 2005 total only 26% of statewide cumulative

state wind and hail losses. See North Carolina Residential Property Adjusted Incurred Losses due to Wind and Hail (copy attached as Exhibit C).

- Insureds in the Beach Plan were subjected to increased surcharges of 15% for homeowner's wind and 25% for homeowner's full peril under the Beach Plan, on top of increases in homeowner's rates through the Rate Bureau.
- The only homeowner's insurance rate filing that was ever subjected to a hearing by the Department was in 1993, more than 16 years ago. See "North Carolina Homeowner's Base Rates as published by the Department." (copy attached as Exhibit D). Since 1993, rates have risen dramatically in eastern North Carolina, yet, as a result of the 2008 Consent Order, many counties including Mecklenburg, Gaston, Union plus 29 counties in Territory 60 will be paying less for insurance than was paid in 1993. Other Triad and Piedmont counties received very minimal or no increases over the past 16 years.
- In a 1999 press release, the Department through Commissioner Long recognized that "our main concern for those counties along our coast is convincing insurance companies to write these essential homeowners policies in eastern North Carolina. It is vital to the state's economy that our citizens east of I-95 be able to find an insurance company willing to write these coverages which are necessary for home loans." See 17 February 1999 Department Press Release (copy attached as Exhibit E). In 1993, of the 164 insurers licensed to sell coverage in North Carolina, less than 30 companies were actually writing business along the coast. Today, despite the rate increases, there are fewer companies actually writing homeowners policies in eastern North Carolina than there were in 1993.

We have repeatedly requested through multiple filings at the Department that the Commissioner exercise his authority to hold a public hearing on rates, including specific requests under G.S. 58-36-20(b). While we asked for immediate relief and stays of rates, we also advised we sought prospective relief as well. See, e.g., 7 April 2009 hearing transcript, pages 19 lines 24-25 through page 20, lines 1-6 (copy attached as Exhibit F); page 79, lines 3-7 ("there is at least a prospective hearing that should be ordered") (copy attached as Exhibit G); page 82, lines 9-12 ("[it]s...in your discretion whether we...have it prospectively") (copy attached as Exhibit H). See also, 29 January 2009 hearing transcript, page 22, lines 6-7 ("we have authority for this hearing that we're asking for under 58-36-20(b)") (copy attached as Exhibit I). Counsel for the Department also agrees that the Commissioner may exercise such authority. See, e.g., 29 January 2009 hearing transcript, page 39, lines 12-14 ("it is a true statement that 58-36-20 provides that the Commissioner can revisit his rates.") (copy attached as Exhibit J). The Rate Bureau also agreed that the Commissioner may exercise such authority. See, e.g., 7 April 2009 hearing transcript, page 76, lines 20-23 ("[t]hey have a right to come in and petition the Department and try and show that prospectively they don't feel like they ought to pay those rates.") (copy attached as Exhibit K); page 81, lines 7-9 ("that is always within the discretionary

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authority of the Commissioner to reconsider prospectively what rates are in North Carolina.”) (copy attached as Exhibit L). See also, 29 January 2009 hearing transcript involving the Beach Plan and FAIR Plans, page 53, lines 3-7 (“[w]e recognize that the department and the Commissioner has the discretion under 58-36-20 Subsection (b) as he may deem appropriate at such time as may be appropriate to review any rate consideration...on a prospective basis.”) (copy attached as Exhibit M).

We, therefore, respectfully request that you exercise your statutory and Constitutional authority to hold a public hearing on prospective homeowner rate adjustments in North Carolina where we can present evidence to support a prospective rate decrease in North Carolina.

Sincerely yours,


M. Keith Kapp

cc: Robert Outten, Esq. (via e-mail w/attachments)
Daniel Johnson, Esq. (via e-mail, w/attachments)
David Boone, Esq. (via e-mail, w/attachments)
Michael Strickland, Esq. (via e-mail, w/attachments)
Glenn Raynor, Esq. (via e-mail, w/attachments)
William Trott, Esq. (via e-mail, w/attachments)

NAIC

National Association of Insurance Commissioners

Report on Profitability By Line By State in 2007

2008

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EXHIBIT

A

tabbles®

10/07/2008

**2007 Profitability Report
Countrywide - Direct
Percent of Net Worth
Return on Net Worth**

Line Of Business	(2) 1998	(3) 1999	(4) 2000	(5) 2001	(6) 2002	(7) 2003	(8) 2004	(9) 2005	(10) 2006	(11) 2007	(11) AVG
Private Passenger Auto Liability	10.5	7.0	2.1	0.6	0.6	6.3	9.4	9.1	10.5	7.4	6.4
Private Passenger Auto Physical	9.0	9.4	2.5	5.3	11.7	16.4	21.9	15.3	16.1	12.0	12.0
Private Passenger Auto Total	10.1	7.7	2.2	2.0	4.1	9.4	13.3	11.0	12.1	8.8	8.1
Commercial Auto Liability	4.3	0.5	1.6	(0.3)	1.2	7.2	12.1	12.8	13.6	11.4	6.4
Commercial Auto Physical	2.0	(1.4)	1.1	6.7	13.5	23.3	22.6	18.0	16.2	15.1	11.7
Commercial Auto Total	3.9	0.1	1.5	1.0	3.5	10.1	14.0	13.7	14.0	12.0	7.4
Homeowners Multiple Peril	5.4	5.4	3.8	(7.2)	1.4	9.7	3.7	(2.8)	18.5	16.0	5.4
Farmowners Multiple Peril	(4.0)	2.0	5.8	(3.6)	2.0	9.5	13.0	14.6	9.3	10.2	5.9
Commercial Multiple Peril	3.5	1.6	6.7	(5.5)	7.4	11.2	8.8	5.7	15.6	15.1	7.0
Fire	11.0	7.7	16.4	(40.7)	37.6	34.8	35.6	9.1	29.6	32.7	17.4
Allied Lines	(12.9)	(2.3)	11.5	(55.2)	14.2	26.8	(2.1)	(123.6)	23.0	36.5	(8.4)
Inland Marine	17.5	11.8	22.0	7.9	25.4	27.4	26.9	(11.4)	26.3	30.8	18.5
Medical Malpractice	7.6	5.1	5.4	(4.7)	(7.4)	(0.1)	9.9	13.5	16.5	15.6	6.1
Other Liability	9.7	8.0	8.9	2.8	(10.3)	1.6	1.8	6.4	12.4	11.5	5.3
Workers Compensation	8.8	4.5	6.0	0.2	2.4	6.9	10.1	9.6	10.0	9.0	6.8
All Other	16.7	16.1	18.2	10.7	15.5	20.2	16.8	16.7	20.0	9.2	16.0
Total All Lines	8.8	6.6	6.5	(0.5)	3.3	9.5	10.0	5.3	14.4	12.5	7.6

Return on Net Worth

Users of this report should be aware of the explanations and qualifications contained in the introduction.

**2007 Profitability Report
North Carolina
Percent of Net Worth
Return on Net Worth**

Line Of Business	(2) 1998	(3) 1999	(4) 2000	(5) 2001	(6) 2002	(7) 2003	(8) 2004	(9) 2005	(10) 2006	(11) 2007	(11) AVG
Private Passenger Auto Liability	9.0	6.6	1.3	1.7	2.7	2.1	(1.5)	2.9	2.2	1.8	2.9
Private Passenger Auto Physical	7.3	2.0	7.5	16.2	18.2	14.8	18.1	24.9	18.5	11.0	13.9
Private Passenger Auto Total	8.5	5.1	3.5	6.9	8.5	6.8	5.5	10.8	8.0	4.9	6.8
Commercial Auto Liability	8.3	1.0	10.6	2.8	8.6	10.7	16.7	13.5	10.8	14.9	9.8
Commercial Auto Physical	(5.4)	(11.8)	2.1	11.4	19.0	27.3	22.1	23.2	18.5	19.2	12.5
Commercial Auto Total	6.2	(1.1)	9.2	4.3	10.5	13.6	17.6	15.2	12.1	15.6	10.3
Homeowners Multiple Peril	(4.9)	(16.2)	7.0	17.0	7.3	2.8	24.0	29.2	24.9	20.9	11.2
Farmowners Multiple Peril	2.4	(27.0)	17.0	19.5	24.3	(11.2)	18.2	21.5	26.1	25.4	11.6
Commercial Multiple Peril	4.3	(4.6)	9.5	12.8	19.2	19.9	20.0	24.7	23.3	22.9	15.2
Fire	12.1	(9.8)	23.3	28.0	46.8	52.8	46.2	40.0	32.8	21.0	29.3
Allied Lines	(56.0)	(144.6)	(0.1)	59.0	12.5	(15.6)	36.1	51.0	43.6	45.7	3.2
Inland Marine	13.5	(21.7)	19.4	19.5	13.2	19.6	19.1	28.1	32.9	27.6	17.1
Medical Malpractice	4.0	(4.1)	0.4	(14.3)	1.0	7.3	10.5	25.1	24.7	22.0	7.7
Other Liability	7.0	21.9	11.1	6.0	19.7	21.6	10.4	15.6	21.9	20.7	15.6
Workers Compensation	7.0	3.9	7.8	4.6	1.4	4.7	3.9	0.3	4.7	8.4	4.7
All Other	23.2	18.8	20.9	17.6	19.7	23.1	12.4	25.0	23.7	18.7	20.3
Total All Lines	6.3	0.5	7.9	9.4	11.1	11.2	12.2	16.2	15.9	14.7	10.5

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Consumer Federation of America

1620 I Street, N.W., Suite 200 * Washington, DC 20006

For Immediate Release:
Thursday, January 10, 2008

Contact: J. Robert Hunter, 703-528-0062
Travis Plunkett, 202-387-6121

INSURERS MAINTAIN RECORD PROFITS IN 2007 BY OVERPRICING POLICIES AND UNDERPAYING CLAIMS

--Anti-Consumer Practices Also Lead to Bloated Surplus and Reserve Levels--

State and national consumer organizations joined the Consumer Federation of America (CFA) today to release a new study concluding that the property/casualty insurance industry continued in 2007 to systematically overcharge consumers and reduce the value of home and automobile insurance policies, leading to profits, reserves, and surplus that are at or near record levels. The study estimates that insurer overcharges over the last four years amount to an average of \$870 per household.

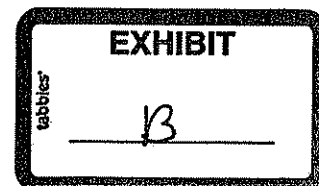
The report provides extensive data demonstrating that property/casualty insurance companies are paying out lower claims in relationship to the premiums they charge consumers than at any time in decades. The pure loss ratio, the actual amount of each premium dollar insurers pay back to policyholders in benefits, was only 54.6 cents in 2007. Over the past 20 years, the amount paid back as benefits has dramatically declined from over 70 cents per premium dollar, indicating a huge loss in the value of insurance to consumers.

"Consumers ultimately pay the price for the unjustified profits, padded reserves, and excessive capitalization that exist right now in the insurance industry," said J. Robert Hunter, the Director of Insurance for the Consumer Federation of America (CFA) and author of the study. Hunter is an actuary, former state insurance commissioner, and former federal insurance administrator.

"The insurance industry reaped record profits in 2004 and 2005, despite significant hurricane activity," said Hunter. "Profits in 2006 rose to unprecedented heights and 2007 may set a fourth consecutive profit record," he said. "Unfortunately, a major reason why insurers have reported record-high profits and low losses in recent years is that they have been methodically overcharging consumers, cutting back on coverage, underpaying claims, and getting taxpayers to pick up some of the tab for risks the insurers should cover," said Hunter.

In the last several years, insurers sharply increased premiums for homeowners and commercial insurance and reduced or eliminated coverage for tens of thousands of Americans in coastal areas. Insurers have succeeded in convincing Congress to continue taxpayer subsidies for terrorism losses and are seeking additional subsidies for catastrophe insurance.

Using a number of common measures of financial health, the study finds that balance sheets for property/casualty insurers are in better condition overall than at any time in history.



stock price stability, the property/casualty insurance industry represents a below-average risk compared to all stocks in the market, safer than investing in a diversified mutual fund.

In 2007, the study estimates that stock insurers will earn a return on equity (ROE) of more than 19 percent, well in excess of what is required by investors. The lower industry-wide ROE that insurers report underestimates the industry's actual ROE.

Surplus is Unprecedented: Insurers are Overcapitalized

The study estimates that retained earnings, or surplus, for the entire industry was \$687 billion at the end of 2007. An adequate surplus guarantees a safe insurance industry, but this amount is excessive by any legitimate measure. To assess the financial solidity of an insurance company, regulators examine the ratio of net premium written to surplus, which, at the lowest level ever, 0.66 to 1 (66 cents of premium written for every dollar of surplus), is less than half of the extremely safe 1.5 to 1 ratio that is recommended by many observers and far less than the famous "Kenny" rule of 2 to 1 as an efficient surplus level. The largest loss ever suffered by the insurance industry, Hurricane Katrina, represented an after-tax loss of \$26.7 billion, or 4 percent of current surplus when adjusted to 2007 dollars. The \$12.2 billion in after-tax losses experienced by insurers after the September 11th terrorist attacks amounts to 2 percent of surplus. Many insurers are engaged in massive stock buy-back programs and the purchase of other corporations with this excess capital. Insurance chief executive officers now have the highest average cash compensation of any industry in America. Even the Insurance Information Institute (III) admits that the industry is overcapitalized: "...there is excess capital in the industry today – estimated by some analysts to be as much as \$100 billion..." The excess capital approaches \$175 to \$200 billion if reserve redundancies (see below) are eliminated.

Loss and Loss Adjustment Expense Reserves are Padded with Hidden Profits

When industry profits are high, as they have been in record amounts since 2003, insurers tend to pad their reserves. This practice contributes to financial solidity. However, insurers also pad their reserves because it removes income from their profit statements, thus lowering their tax burden because reserves are not taxed and income is. This practice also allows insurers to point to inflated "losses," which rise due to reserve redundancies, as justification for not lowering rates.

The Insurance Services Office (ISO) estimates that loss and loss adjustment expense reserves at year-end 2006 were 9 percent redundant, a figure that represents over \$50 billion in excessive reserves. Adjusting for the time value of money, ISO saw an additional \$13 billion in padded reserves at year-end 2006. CFA estimates that the redundancy in reserves increased in 2007 and could be up to more than \$80 billion by year-end 2007.

Insurers Have Lowered Risk and Maximized Profits through Legitimate and Illegitimate Means

In recent years, insurers have reduced their financial risk by making wise use of reinsurance and other risk-spreading techniques, such as securitization. However, the study cites several tactics that insurers have also used to shift costs and risk onto consumers and taxpayers. Some of the questionable methods that insurers have used to shift risk include:

- **Sharp limits on coverage and availability.** Insurers have imposed large hurricane deductibles, capped home replacement and rebuilding costs, added new exclusions such as

4. Make state-backed reinsurance available. States should join together to offer reinsurance to private insurers using the recent Florida legislation as a model. If all catastrophe-prone states joined together to underwrite reinsurance at actuarially sound rates (or even at a mark-up of 50 percent over actuarially sound rates), they would likely end or significantly diminish the periodic crises that follow big hurricanes or earthquakes.

5. Consider offering state-backed property and automobile insurance. Policymakers in coastal regions should consider whether the increasing rates, decreasing coverage, and turmoil created by large numbers of periodic non-renewals have reached the point where private insurers should not be offering certain coverage at all. In 2007, Florida allowed its primary insurer, Citizens Insurance Company, to offer comprehensive homeowners insurance policies at competitive rates. This forced private insurers to lower some rates and allowed Citizen's to spread risk more broadly. States should consider taking this approach further by offering automobile insurance, which would assure that, over time, the state would make a small profit or at least break even on its insurance offerings.

6. Better regulate the use of catastrophe modeling. States should follow Florida's example in blocking catastrophe-modeling firms from using short-term projections as the basis for establishing insurance rates and require them to return to the practice of using long-term projections. Coastal states should consider uniting to develop a coastal weather modeling system of their own to test the accuracy of private projections and to evaluate the fairness of insurer rate requests.

7. End unjustified geographic discrimination. If any insurer fails to market a line of insurance that it is selling in other parts of a state (or in other states), regulators should consider convening hearings to determine if the insurer's license should be revoked for geographic discrimination.

8. Review homeowners insurance policy forms for hidden provisions. Insurance regulators should carefully review the policy forms and exclusions they have allowed to become part of homeowner's policies, and require insurers to offer clear disclosure about exclusions and lower rates to reflect decreased risk that results from these exclusions.

Recommendations for Federal Policymakers

1. Repeal the McCarran-Ferguson Act's antitrust exemption for insurance. The excessive pricing and unjustified claims practices documented in this report are abetted by collusive and anticompetitive behavior allowed under this law. Congress should impose the same antitrust law relative to insurance with which virtually every other business in America must comply.

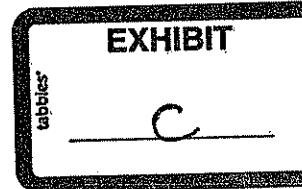
2. Authorize interstate cooperation on catastrophe insurance. Congress should authorize states to use interstate compacts to create multi-state risk "pools" to cover wind and other catastrophic losses. Such legislation should allow states to permit the accumulation of tax-free reserves if the funds collected are kept for the purpose of paying claims after wind disasters strike.

3. Repair the troubled National Flood Insurance Program (NFIP) before vesting it with any additional authority. Congress should not pass any legislation to subsidize wind insurance or to add wind coverage to the National Flood Insurance Program. The NFIP is in disarray. Out-of-date flood maps used by the NFIP have underestimated flood risk and resulted in unjustifiably low insurance rates. This has created hidden subsidies for unwise construction in the nation's flood-prone areas, helping to create a \$20 billion shortfall in NFIP funding. The use of private insurers to run the program has resulted in between one-third and two-thirds of flood premiums flowing to

North Carolina Residential Property Adjusted Incurred Losses due to Wind and Hail - 1986-2005

	Beach Area				Coastal Area			
	Dwelling EC		HO Owners		Dwelling EC		HO Owners	
	Incurred Loss	Incurred Loss	Incurred Loss	Incurred Loss	Incurred Loss	Incurred Loss	Incurred Loss	
Charley - 1986			66,149	66,149			552,185	552,185
1987			207,729	207,729			718,069	718,069
1988			51,035	51,035			2,192,391	2,192,391
1989			727,076	727,076			2,829,771	2,829,771
1990			145,226	145,226			1,264,911	1,264,911
1991								
1992	54,734	83,240	83,240	137,974	1992	179,944	1,775,010	1,954,954
Emily - 1993	11,020,794	6,386,050	6,386,050	17,406,844	1993	2,172,328	25,552,187	27,724,515
1994	209,938	139,876	139,876	349,814	1994	157,152	1,065,374	1,222,526
1995	246,083	171,808	171,808	417,891	1995	298,354	3,053,521	3,351,875
Fran, Bertha - 1996	101,465,118	32,629,711	32,629,711	134,094,829	1996	17,805,016	195,081,441	212,886,457
1997	470,681	183,824	183,824	654,505	1997	250,822	2,013,887	2,264,709
Bonnie - 1998	34,748,453	9,409,876	9,409,876	44,158,329	1998	3,859,749	47,345,528	51,205,277
Floyd - 1999	31,188,497	7,370,452	7,370,452	38,558,949	1999	4,407,817	45,502,761	49,910,578
2000	520,238	226,234	226,234	746,472	2000	235,281	3,613,213	3,848,494
2001	210,057	102,117	102,117	312,174	2001	385,791	1,313,546	1,699,337
2002	263,302	112,445	112,445	375,747	2002	444,987	1,326,311	1,771,298
Isabel - 2003	27,253,741	3,082,797	3,082,797	30,336,538	2003	20,003,920	83,071,521	103,075,441
Charley, Alex - 2004		1,869,511	1,869,511	1,869,511	2004		9,142,924	9,142,924
Ophelia - 2005		3,721,587	3,721,587	3,721,587	2005		13,419,776	13,419,776
				274,338,379				491,035,488

Total loss for the coastal counties: **765,373,867**



		Total State			Statewide excl Beach and Coast		
		Dwelling EC	HO Owners	TOTAL	Dwelling EC	HO Owners	TOTAL
		Incurring Loss	Incurring Loss	Incurring Loss	Incurring Loss	Incurring Loss	Incurring Loss
Charley - 1986	1986		15,655,401	15,655,401		15,037,067	15,037,067
1987	1987		22,495,771	22,495,771		21,569,973	21,569,973
1988	1988		65,492,834	65,492,834		63,249,408	63,249,408
1989	1989		406,198,435	406,198,435		402,641,588	402,641,588
1990	1990		37,503,350	37,503,350		36,093,213	36,093,213
1991	1991		-	-		-	-
1992	1992	1,679,324	24,186,075	25,865,399	1,444,646	22,327,825	23,772,471
Emily - 1993	1993	17,115,568	94,875,027	111,990,595	3,922,446	62,936,790	66,859,236
1994	1994	2,598,090	26,662,873	29,260,963	2,231,000	25,457,623	27,688,623
1995	1995	3,489,841	53,051,068	56,540,909	2,945,404	49,825,739	52,771,143
Fran, Bertha - 1996	1996	158,289,245	813,376,837	971,666,082	39,019,111	585,665,685	624,684,796
1997	1997	3,067,948	34,988,278	38,056,226	2,346,445	32,790,567	35,137,012
Bonnie - 1998	1998	47,128,964	190,143,070	237,272,034	8,520,762	133,387,666	141,908,428
Floyd - 1999	1999	51,098,293	222,799,257	273,897,550	15,501,979	169,926,044	185,428,023
2000	2000	6,216,750	88,922,556	95,139,306	5,461,231	85,083,109	90,544,340
2001	2001	3,062,969	30,953,444	34,016,413	2,467,121	29,537,781	32,004,902
2002	2002	4,827,522	48,471,021	53,298,543	4,119,233	47,032,265	51,151,498
Isabel - 2003	2003	66,418,320	274,991,002	341,409,322	19,160,659	188,836,684	207,997,343
Charley, Alex - 2004	2004		107,485,841	107,485,841	-	96,473,406	96,473,406
Ophelia - 2005	2005		62,560,438	62,560,438	-	45,419,075	45,419,075
				2,985,805,412			2,220,431,545

Cum. Coastal Counties' Wind Losses Compared to State Losses \$765,373,867 / 2,985,805,412 = 26%

The other 82 counties incurred 74% of the total wind losses.

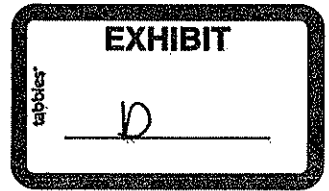
SOURCE: various Cause of Loss reports included in filings, as compiled by ISO

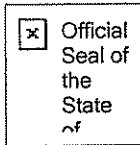
North Carolina Homeowners Base Rates*

Territory	Territory definition	Before 1993	1993	1998	2002	2005	2007	2009
5	Carteret, Currituck, Dare & Hyde	550	578	693	901	1,036	1,295	1,379
6	Brunswick, New Hanover, Onslow & Pender	550	578	693	901	1,036	1,295	1,522
32	Raleigh & Durham	344	358	375	398	398	410	431
34	Cumberland	336	353	389	447	492	531	552
36	Greensboro & Winston-Salem	334	347	347	354	354	354	365
38	Charlotte	338	351	351	358	358	358	344
39	Gaston, Mecklenburg & Union	337	350	350	350	345	345	324
41	Columbus, Bladen, Robeson	330	346	381	457	503	614	688
42	Brunswick, New Hanover, Onslow & Pender	417	438	490	588	647	809	1,050
	Beaufort, Camden, Carteret, Chowan, Craven, Currituck, Dare, Hyde, Jones, Pamlico, Pasquotank, Perquimans, Tyrrell & Washington	417	438	490	588	647	809	987
43e		-	-	-	-	-	-	862
43w		-	-	-	-	-	-	439
44	Richmond, Montgomery, Anson, Bertie, Duplin, Gates, Greene, Hertford, Lenoir, Martin, Pitt, Sampson & Wayne	327	317	317	365	383	414	439
45	Caswell, Granville, Person, Vance & Warren	337	350	385	443	465	518	554
46	Edgecombe, Franklin, Halifax, Harnett, Hoke, Johnston, Lee, Moore, Nash, Northampton, Scotland & Wilson	338	351	386	409	429	446	455
47								
53	Chatham, Durham, Orange & Wake	354	354	371	390	390	398	406
57	Alamance, Davidson, Forsyth, Guilford, Randolph & Yadkin	337	350	350	357	357	357	364
60	Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Cherokee, Clay, Cleveland, Davie, Graham, Haywood, Henderson, Iredell, Jackson, Lincoln, Macon, Madison, McDowell, Mitchell, Polk, Rockingham, Rowan, Rutherford, Stanly, Stokes	329	319	319	319	316	316	312

NOTE: I do not know when the "prior to 1993" rates were first established. 1993 was the first year that hurricane modeling was used in an NC HO filing, and it was the only HO filing that was subjected to a hearing.

* HO-3 form, \$75,000 amount of insurance, \$250 deductible, frame construction, protection class 1-5; adjusted to current key factors





NC Department of Insurance News

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Long Denies Industry's Rate Hike Request for Homeowners Insurance

Storm Losses Account for Statewide Average for 4.3 Percent Increase

RALEIGH - Insurance Commissioner Jim Long today announced a settlement with the insurance industry that will allow an average statewide increase of 4.3 percent for homeowners insurance. Insurers had requested an average rate hike of 15.6 percent in their rate filing submitted December 3, 1998. The difference between the industry's original rate hike request and Long's order represents a savings of nearly \$78.5 million in premiums for North Carolina homeowners.

"Since the last rate increase in 1993 of two percent, North Carolina insurance companies have paid out more than \$1.8 billion in storm damage claims," said Long. "We realized that an increase was inevitable. However, I'm confident that my department has done an outstanding job by keeping a careful balance of protecting the consumers with fair insurance rates, yet still maintaining the solvency of insurers who do business in this state."

Most companies write homeowners insurance at discounted rates, rates below the maximum set by the Department of Insurance. Recently, however, some companies have been reducing the discounts they offer, thus lending to the perception by policyholders that rates have increased since 1993. With today's ruling, Commissioner Long has established the absolute maximum the industry can raise overall rates until the industry's next filing.

Not everyone will be seeing an increase in their insurance premiums. In fact, those counties in the western and central regions of the state, including the Triad and Piedmont areas, will see no increase.

The counties most affected by this increase include the barrier islands, who will see no more than a 20 percent rate hike. The industry originally requested an increase of

more than 45 percent. For a \$130,000 frame home, the 25 percent difference saves policyholders an average of \$192 per year.

"Obviously, we don't like to see anyone's insurance rates go up," said Long. "But our main concern for those counties along our coast is convincing insurance companies to write these essential homeowners policies in eastern North Carolina. It is vital to the state's economy that our citizens east of I-95 be able to find an insurance company willing to write these coverages which are necessary for home loans."

Of the 164 insurers licensed to sell coverage in North Carolina, less than 30 companies are actually writing business along the coast. For those homeowners who are not able to find coverage through the voluntary market, insurance can be purchased through the Beach Plan. Created in 1967 by the General Assembly, the Beach Plan is funded and operated by the insurance industry. All insurers who write property insurance in North Carolina are required to participate in the plan.

"This facility which was intended to be an insurer of last resort, now writes a majority of the policies along the coast," said Long. "When the plan suffers excessive losses, it assesses its members to make up the difference.

"Policyholders of the Beach Plan may have coverage, but unfortunately they pay more than double what the average homeowner does for insurance coverage. The Department of Insurance is working hard with the industry and the legislature, to ensure that fair and proper coverage is offered to all North Carolina citizens."

In addition to the rate settlement, the Department of Insurance has ordered the insurance industry to advise their policyholders that flood coverage is not offered on a homeowners policy. Insurers must include notification that protection from flood damage can only be obtained with an additional policy through the National Flood Insurance Program.

- NCDOI -

1 made by Mr. Johnson, the exception that it shouldn't be
2 applied to the general procedural rule, rights conferred
3 by 58-40-105, I don't believe that it really applies.

4 Also, I would remind you that 58-40-15
5 has a multitude of exceptions to its exceptions, which
6 appear to be broad enough at least to take in some of the
7 insureds that are affected by these rate increases that
8 we have today.

9 So if you're relying on the 40-15(11),
10 look carefully at everything that surrounds it and what
11 parties you have before you, because I think certainly
12 some of the folks that we represent would come within
13 those parameters; that is, as being insureds or potential
14 insureds to which these rates impact, either because
15 they're in the plan or because they're actually insured
16 by companies that are in the voluntary market within the
17 Rate Bureau.

18 But then turning on to 36-20(b), I
19 believe it's at Page 3 of the Rate Bureau's Brief, they
20 recognize that that is a potential for us. They just
21 point out that if you apply that, the Commissioner
22 doesn't have -- it's not automatic to stop the rates.
23 Hence we have our Motion for Stay.

24 If you look at 58-36-20(b), the last
25 sentence, Your Honor, of that provision, provides, the

1 Commissioner may thereafter review any filing in the
2 manner provided, but if so reviewed, no adjustment of any
3 premium on any policy then enforce may be ordered. So,
4 hence, we have to couple -- if we argue to you under 36-
5 20(b), we have to couple it with a Request for Stay as we
6 have done and as Ms. Morgan will argue to you.

7 Unfortunately, I need to return once
8 again to the filed rate doctrine on this matter. We've
9 argued that to you before. I would commend to you Judge
10 Pittman, I think, in his Superior Court Order got it
11 quite correctly when he held, there is no claim for
12 damages against the insurers or any allegation of wrong
13 doing by the insurers. There is no relief prayed for
14 from insurers. There is a direct attack on the
15 lawfulness and constitutionality of the action or
16 inaction of the Commissioner of Insurance.

17 That says it all, in my opinion, as to
18 the filed rate doctrine. That's only applied when you
19 attack under, in this case, under something other than
20 the insurance laws in Chapter 58. If we had some sort of
21 a Chapter 75 proceeding, if we had a Civil Court
22 Superior action, those would be grounds to raise the
23 filed rate doctrine.

24 Again, I would refer you back as we did
25 in an earlier argument, not just to Judge Pittman, but

1 the Article 40 Request for a Hearing, we still contend
2 that we have claims under Article 36 of Chapter 58. As
3 the Rate Bureau has just argued, there is at least a
4 prospective hearing that should be ordered in this case
5 on the issues raised by the Petitioner. I believe they
6 just said that as well, that a prospective hearing is at
7 least required or at least available under Chapter 36.

8 What we're asking for in the stay, we're
9 asking for the status quo, and we thought we should
10 clarify that in the stay we're asking that all rates,
11 both the decreases and the increases, be maintained under
12 the status quo. Mr. Raynor and Mr. Strickland had said
13 we wanted piece of it stayed, and that's not the case.
14 We're saying we want the status quo for all of it
15 maintained.

16 The Burrill case was handed out. We
17 just wanted to distinguish that case. That involved a
18 class action complaint. It was a Superior Court case,
19 and it was a failure to exhaust administrative remedies
20 argument which we contend we are here to exhaust
21 administrative remedies to be heard at the Department of
22 Insurance.

23 It was mentioned that in regards to the
24 data we pointed out in the Agency Record about the three
25 most damaging hurricanes. We used the term flooding. I

1 informal disposition is appropriate prior to any hearing.
2 So there is no right to a hearing inherent in this
3 process and accordingly no right to participate in that
4 hearing that there is no right to have. Thank you, Your
5 Honor.

6 MR. HALE: Anything further?

7 MR. KAPP: I think you have heard it
8 all, Your Honor, from our standpoint. We just want to be
9 heard. It's kind of in your discretion whether we
10 intervene, whether we get a new hearing, or whether we
11 have it prospectively only or stayed. All of those are
12 the points to be addressed. But on behalf of my clients,
13 I just ask that we be heard by the Commissioner.

14 MR. HALE: From the Department,
15 anything further?

16 MR. BOONE: Nothing further, Your
17 Honor.

18 MR. STRICKLAND: Would you want
19 proposed Orders, or do you want to do this yourself?

20 MR. HALE: I would prefer proposed
21 Orders in Word document form instead of PDF.

22 MR. RAYNOR: Is there a time frame
23 that you would ask that those be submitted?

24 MR. HALE: Well, I assume you all
25 want to look at the transcript from this hearing, so I

1 that can be insured under the Beach Plan, to implement
2 these excessive categories of surcharges, rates, and
3 deductibles.

4 In addition to meeting the standards
5 under 40-105(a) and 1.0104 of the Commission's Statutes,
6 we have authority for this hearing that we're asking for
7 under 58-36-20(b). And in that statute, the last
8 sentence, this is talking about the filing which he
9 disapproves or which he enters an order into.

10 The statute says, "the Commissioner may
11 thereafter -- certainly we're thereafter; I don't
12 disagree with that, of at least the November 21 decision
13 -- review any filing in the manner provided, but if so
14 reviewed, no adjustment of any premium on any policy then
15 in force may be ordered.

16 So unless you enter a stay, and that
17 gets to why I've got the stay as part of this, it's all
18 in one bailiwick. It's got to be ruled on. That first
19 part of the sentence gets us here, discretionary albeit.
20 He may review his decision. And I think that the people
21 from the coast have presented enough information to
22 justify the Commissioner exercising his discretion to
23 review that Order.

24 The provision that I just cited is in
25 the Beach Plan, and it's directly referenced in

1 Plan or FAIR Plan rulings.

2 So, number one, let's just get rid of
3 any concept that this matter today is an appeal from the
4 Beach Plan and the FAIR Plan. That is not true. And I
5 don't think that they're contending that, but I thought
6 that there was enough confusion that I would just point
7 out there are no appeals from the Beach Plan and the FAIR
8 Plan before you. They may be coming. They'll get a new
9 docket number. We'll handle them when they come. But
10 this case today is a dismissal. All right.

11 Now, it is a true statement in Article
12 36, which generally deals with rate bureau matters, it is
13 a true statement that 58-36-20 provides that the
14 Commissioner can revisit his rates. And, Your Honor,
15 that is the Commissioner's power, and it can't be forced.
16 And some homeowner at the beach cannot tell the
17 Commissioner you will exercise your discretion to review
18 these things. I am bringing a case to make you exercise
19 your discretion.

20 The Commissioner of Insurance, looking
21 out for everybody, if the Commissioner, he or she, and in
22 this case it's a he, decides that there is a revisiting
23 of rates that's needed, that is for the duly elected
24 Commissioner. It is not compellable at the point of a
25 Notice of Hearing. It's not compellable at the point of

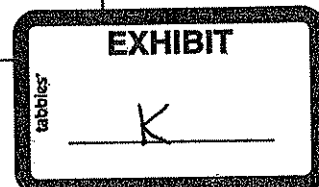
1 they're higher than everybody else, but there is no
2 evidence they are excessive.

3 The only evidence in the record that
4 they have presented to you in this official Agency Record
5 is that the rates on the coast need to be significantly
6 higher than those approved by the Department.

7 If they want those rates changed, if
8 they want to address the issues that they think should be
9 addressed, their only recourse is to go to the
10 Commissioner and ask him to hold a hearing. He can hold
11 a hearing anytime he wants to, but it has to be
12 prospective. He cannot go back and reopen the
13 proceedings that were closed by the December 18 Consent
14 Order. For whatever reason they think that was
15 inappropriate, he may not go back and reopen that.

16 And that makes the Motion for
17 Intervention and Motion for a Stay moot. If he can't
18 reopen it on a retroactive basis, there's nothing else to
19 be heard.

20 They have a right to come in and
21 petition the Department and try and show that
22 prospectively they don't feel like they ought to pay
23 those rates. I think they're gonna lose, but they have
24 that right. And we'll be here and put forth the case
25 that we think is in opposition to that, and the



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Honor.

MR. HALE: Thank you.

MR. RAYNOR: One thing, just a point of clarification, I don't think this was confusing to the tribunal, but we weren't representing that the Commissioner should grant a prospective hearing on the Petition but rather that that is always within the discretionary authority of the Commissioner to reconsider prospectively what rates are in North Carolina. As we understand, that's not what is being asked for, but the law so provides.

And final point, at the end of the day, it remains the case that they are asserting a right to participate in a hearing that the law doesn't contemplate ever has to happen in the first instance. If you look at 58-36-20(b), it provides, in the event that no Notice of Hearing is issued within 50 days from the date of the Rate Bureau's filing, the filing shall be deemed to be approved.

So, again, they're premising the argument on a right to participate in a hearing, the right for which doesn't exist in the first instance. Nobody is entitled to a hearing. The Rate Bureau is not entitled to a hearing, as is indicated likewise by 1.0417 of the Administrative Code provision acknowledging that

1 piece of evidence to justify that. The record is silent
2 except for legal arguments.

3 We recognize that the department and the
4 Commissioner has the discretion under 58-36-20 Subsection
5 (b) as he may deem appropriate at such time as may be
6 appropriate to review any rate consideration, but that
7 obviously is on a prospective basis.

8 But implicit in the rate filing and rate
9 decision made here is that the rates are already
10 inadequate. They need to go into effect. The mechanism
11 for making those go into effect is already well under
12 way. It doesn't start on February 1st; it is wrong. And
13 the record shows the efforts that have already been
14 undertaken.

15 So we submit that the remedy here is for
16 a request to be made, not to reopen this hearing, but a
17 request be made at an appropriate time to ask if the
18 Commissioner would investigate or review whether this
19 plan, these rates, are appropriate, and maybe we'll have
20 some more data.

21 But to request that right now when we
22 don't have any data and don't have any information, just
23 saying it is unfair and the Commissioner wasn't
24 considering our interests really just turns the whole
25 rate-making process on its head and in essence undermines